

# MINUTES

## BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE PROFESSIONALS

### REGULATORY COMMITTEE

Tuesday, October 27, 1998

#### ATTENDANCE:

##### Members Present:

Rosemarie S. Hughes, Ph.D., Chair  
Abigail C. Barnes  
Maurice Graham, D.Min.  
Jan McMillan, Ph.D.  
Eric T. Scalise

##### Members Absent:

Nina W. Brown, Ed.D.

##### Staff:

Evelyn Brown, Executive Director  
Arnice Covington, Administrative Assistant  
Janet Delorme, Deputy Executive Director  
Lynne Fleming, AAG  
Robert Nebiker, Senior Deputy Director, Dept. of Health Professions  
Elaine Yeatts, Regulatory Analyst

##### Others Present

David Bailey, Virginia Association for Marriage and Family Therapy (VAMFT)  
Frank Brant, Substance Abuse Certification Alliance of Virginia (SACAVA)  
Kevin Doyle, President, Virginia Association of Alcoholism and Drug Abuse Counselors (VAADAC)  
Karen Eriksen, Ph.D., Virginia Association of Clinical Counselors (VACC), College of William and Mary)  
Scott Field, Virginia Association of Clinical Counselors (VACC)  
J. A. Frazier, R.B.H.A.  
David Glanzer, Ph.D., Eastern Mennonite University  
Charles F. Gressard, Ph.D., College of William and Mary  
Jack Haymen, Virginia Commonwealth University  
Alastair Harris, Ph.D., Radford University  
Paula Horvatic, Ph.D., Director, Virginia Addiction Technology Transfer Center (VATTC)  
Joann Kaminski, Substance Abuse Certification Alliance of Virginia  
Richard S. Luck, Ed.D. Virginia Commonwealth University  
Jack Mallery, Virginia Association of Drug and Alcohol Programs (VADAP)  
Diane Mann, Diamond Healthcare  
Downing Miller, President-Elect, Virginia Association of Alcoholism and Drug Abuse Counselors  
Tom Mullis, Ph.D., Radford University  
Steve Nielsen, Lynchburg College  
Penny Norford

David Price, Virginia Association of Alcoholism and Drug Abuse Counselors  
Anne Remley  
Charlene Sparks, Substance Abuse Certification Alliance of Virginia  
Bob Storer, Virginia Association of Alcoholism and Drug Abuse Counselors  
Debbie Volz, Virginia Association of Alcoholism and Drug Abuse Counselors  
Steve Walker, Ph.D., Radford University, Virginia Association of Marriage and Family Counselors (VAMFC)

#### **CALL TO ORDER:**

The meeting was called to order at 10:10 a.m. by Rosemarie S. Hughes, Ph.D., Chair.

#### **PUBLIC COMMENT**

Dr. Hughes asked if there was any objection to delaying public comment on the draft regulations for substance abuse treatment practitioner licensure until 1:00. Hearing no objection, she invited public comment on the agenda items scheduled for the morning session.

Mr. Storer requested that the requirements for substance abuse counselor certification be changed to allow individuals who have either board certification with two year's experience or a board-approved national certification, rather than both credentials, to act as supervisors.

Mr. Bailey identified the areas of concern of the VAMFT membership regarding the proposed amendments to the *Regulations Governing the Practice of Marriage and Family Therapy* (attached).

Dr. Luck summarized his comments on three chapters of the Board's regulations (attached).

Dr. Eriksen indicated that only one graduate program in Virginia meets the requirements of 18 VAC 115-50-50 as currently written, which could create hardships for students and create a monopoly for one university. She added that other university programs would have to expand in order to meet the current language, which would be cost-prohibitive.

Dr. Gressard added that since statute permits marriage and family counseling under the scope of other licenses, there will be little incentive for people to apply for the marriage and family therapy license if the rules are too restrictive.

#### **APPROVAL OF MINUTES**

Dr. Graham made a motion to approve the minutes of June 5, 1998 as presented. Mr. Scalise seconded the motion which passed unanimously.

#### **REGULATIONS GOVERNING THE CERTIFICATION OF SUBSTANCE ABUSE COUNSELORS**

Dr. Hughes informed the members that a new Executive Order requires that all regulations be submitted within 6 months of publication of a NOIRA. Ms. Delorme stated that based on this mandate, the deadline for submission of all amended and new regulations was December 29<sup>th</sup>. She added that the draft amendments included non-substantive changes based on

recommendations of a 1993 Task Force, reviews of other regulations, and Ms. Fleming's comments on the Standards of Practice (attached). She stated that a new Pre-NOIRA would be submitted to begin the review of the education and supervision requirements, which would require more time for adequate study.

Dr. Hughes expressed concern that the language in the registration of supervision instructions in 18 VAC 115-30-60 made the registration appear to be voluntary. Ms. Delorme explained that because the certification is voluntary in the settings substance abuse counselors work in, the board has not authority to require registration of supervision. She added that the administrative procedure the board had been using for many years was to accept supervision that met the requirements in the regulations without prior registration, but to require applicants to register the supervision at the same time the application was submitted, resulting in unnecessary costs for the applicants. Ms. Fleming added that if the board required registration up front, it would result in delays for individuals who already had the required experience. The members agreed that the regulations should make it clear to applicants why prior registration of supervision would be advantageous. Dr. Hughes asked staff to develop language for consideration at the November meeting.

Mr. Kelly addressed Mr. Storer's comment regarding supervisor qualifications. The members discussed as alternatives either striking the requirement for supervisors with a CSAC to also hold a national certification, or accepting either the national certification or the Virginia certification alone. The members selected the second alternative to allow experienced individuals with national certifications coming from other jurisdictions to act as supervisors without delay.

Ms. Fleming asked what basis the Board currently uses to approve national certifications. Ms. Brown responded that the Board had established SACAVA and NAADAC as the national standards in a policy statement recorded in minutes. Ms. Fleming advised that the regulations include a statement to ensure that any national certification must meet standards substantially equivalent to the board's standards for certification, and that "Board recognized" refer specifically to the Virginia Board. The committee agreed to have staff draft these changes for 18 VAC 115-30-60 C for consideration at the November meeting.

#### Standards of Practice

The members agreed to strike all of the language under subsection A of 18 VAC 115-30-140, which duplicates statute.

There was discussion regarding whether CSAC's should be required to report violations of other mental health service providers under subsection B.4 of the draft standards of practice. Ms. Fleming advised that such a rule would not provide immunity from legal action, but would impose discipline for not reporting a known or suspected violation. The Committee agreed to not expand the reporting requirement to other mental health professions, although it would proceed with this recommendation for its regulations governing master's level practitioners.

Ms. Fleming noted that the confidentiality rule in subdivision B.6 was covered under subdivision B.7, and suggested including a citation for § 54.1-2400.1 in B.7. The Committee agreed to strike subdivision B.6 and amend B.7 as advised.

Dr. Graham expressed concern that the draft language prohibiting sexual relationships in subdivision B.9 would encourage unscrupulous practitioners to pursue sexual relationships with former clients after waiting out the 2 year prohibition. Ms. Fleming recommended combining subdivisions B.8 and B.9 to make the prohibition clearer. Ms. Delorme noted that the proposed amendments to the *Regulations Governing the Practice of Professional Counseling* incorporated the dual relationship language into one subdivision. The Committee agreed to mirror the language from the proposed professional counselor regulations adopted at the May 15, 1998 Board meeting (attached).

Ms. Delorme noted that the board would be unable to determine whether an endorsement applicant had taken a “substantially equivalent” examination as required under 18 VAC 115-20-45 A 4 a. The members agreed to accept any passing score on an examination for licensure or certification in another jurisdiction.

Dr. Graham made a motion to accept the draft as amended and recommend it to the full Board for adoption. Ms. Barnes seconded the motion which passed unanimously.

## **REGULATIONS GOVERNING THE PRACTICE OF PROFESSIONAL COUNSELING**

Dr. Hughes explained that a survey had been sent to provosts and program chairs of sixteen of Virginia’s counseling programs of which twelve schools responded. She noted that the responses regarding proposed changes to the professional counselor education requirements overwhelmingly indicated that the programs are offering coursework in the areas being proposed, and that faculty are available to teach those courses (attached).

Ms. Delorme indicated that the language in 18 VAC 115-20-70 B (attached) pertaining to a “substantially equivalent” exam would be problematic for the same reasons discussed under the regulations for substance abuse counselor certification. The Committee agreed to amend this subsection to mirror the language under 18 VAC 115-20-45 A 5 of the draft.

Dr. Hughes addressed written comment from counseling residents expressing concern that individuals who have already completed their coursework might have to take additional coursework if the new regulations become effective before they complete the residency requirement. As alternatives, the members considered: (i) allowing anyone who registered a residency prior to the effective date of the new regulations to meet the education requirements in the regulations previously in effect; (ii) accepting applicants who had completed a certain number of graduate hours prior to the effective date of new requirements and (iii) implementing a two to four year delay for the effective date of the new requirements. The members selected the last alternative with a two year delay in the effective date of the new course work requirements, and requested that staff draft the amendment for consideration at the November 12th meeting.

Dr. Hughes addressed Dr. Luck's written comments on the regulations (attached). The members requested more time to review the comments for consideration at the November meeting. In reference to the recommendation for early review of graduate degree and coursework, Ms. Delorme informed the Committee that the examination vendor is providing this service to professional counselor applicants for a fee. Dr. Hughes recommended that this information be published in the newsletter.

Dr. Mullis asked if three cumulative semester hours coming from several different courses would be acceptable for the core content areas. Dr. Hughes replied that documentation from the graduate program would be required to verify the hours.

**ADJOURN FOR LUNCH – 12:00**

**RECONVENE - 12:43**

### **REGULATIONS GOVERNING THE PRACTICE OF MARRIAGE AND FAMILY THERAPY**

Dr. Hughes referred to the results of the survey questions regarding the current course requirements for marriage and family therapist licensure (attached). She noted that the majority of programs responding did not offer more than one course in each of the marriage and family studies and marriage and family therapy content areas, and that it would be costly to develop additional courses. She referred to the listing of other state's requirements, noting that about half of the states listed required 18 hours in these core areas. Dr. McMillan expressed concern that the 12 hours being proposed was on the lower end of other state requirements. Dr. Graham stated that the proposed requirements do not meet national standards and will create difficulties for Virginia licensees seeking licensure in other states. Dr. Hughes replied that the proposal as written meets the Council for Accreditation of Counseling and Related Educational Programs (CACREP) standards, and that the American Association of Marriage and Family Therapists (AAMFT) standards are higher than minimum. Mr. Nebiker commented that the administration would have a concern about regulations that added burdens to Virginia's publicly funded institutions of higher education.

Dr. Hughes addressed Dr. Eriksen's comment regarding the draft language in 18 VAC 115-20-50 establishing the degree program requirements (attached). Dr. Eriksen noted that although the College of William and Mary has a program that is recognized for marriage and family therapy training, the training is offered as a specialty in the Community Counseling program, and would not meet the requirement of having an "identifiable training faculty" in marriage and family therapy with an "identifiable body of students that matriculate in that program." In response to these concerns, the members agreed to the following changes to 18 VAC 115-50-50 of the draft.

1. ~~The program~~ There must be a sequence of academic study with the expressed intent to prepare students to practice marriage and family therapy as specified in pertinent institutional catalogues and brochures as documented by the institution;

2. There must be an identifiable marriage and family therapy training faculty and an identifiable body of students who ~~matriculate in that program for the degree~~ complete that sequence of academic study.

Addressing other public comment, Dr. Hughes noted that although courses numbered 3-6 under 18 VAC 115-50-55 did not specify a marriage and family therapy perspective, most general counseling courses would cover systems theory and techniques. Referring to Dr. Luck's suggestion to include a course in substance abuse, Dr. Hughes noted that the NOIRA had not addressed any problem with the general core areas, but that it would be worthwhile to consider in a future review process.

Ms. Barnes made a motion to recommend the amended regulation to the Board on November 13<sup>th</sup>. The motion was seconded by Mr. Scalise. Mr. Scalise asked about the comments received in opposition to the reduction in the hours for the content areas of marriage and family studies and marriage and family therapy. Dr. Hughes responded that the public comment was evenly split in favor of and in opposition to the reduction in hours, and that the survey results indicated most programs in Virginia cannot provide more than 12 semester hours. She added that of the 26 states that submitted information (out of 41 that license marriage and family therapists), 15 required 18 semester hours, 6 required 12, 1 required 8 and 2 did not specify.

A vote was taken on the motion which passed unanimously.

## **REGULATIONS GOVERNING THE CERTIFICATION OF SUBSTANCE ABUSE COUNSELORS.**

Dr. Hughes invited public comment on the draft regulations. Dr. Horvatic spoke on behalf of the Consortium of Substance Abuse Organizations (CSAO) and distributed a handout with recommendations made by the Consortium (attached).

Debbie Volz stated that the CSAO did not have a consensus on the waiver of licensure requirements for applicants without master's degrees and distributed a handout of VAADAC's proposal that had been submitted to the Committee previously. She added that it was the intent of the General Assembly that the Board include a waiver in its regulations.

Mr. Brandt referenced the International Certification and Reciprocity Consortium's Certified Clinical Supervisor requirements and noted that they parallel the waiver language for non-master's level substance abuse counselors proposed by VAADAC. He explained that competency is not determined by examination, but is verified by reference letters from clinical supervisors.

Dr. Gressard noted that only three programs responding to the survey indicated that they could offer a course in each of the 5 substance-abuse content areas. He added that the education

requirement for the Master Addiction Counselor certification, considered the national standard, is 2 graduate courses in substance abuse counseling.

Mr. Field spoke in opposition to licensing individuals with less than a master's degree.

Dr. Hughes read the scope of practice in statute and asked for clarification of § 54.1-3508, which authorizes the Board to license individuals with "substantially equivalent" education or experience. Mr. Nebiker replied that the only thing specified in the statute is that the individual have 1 year of clinical experience; the rest was left to the judgment of the Board. Dr. McMillan noted that the word "may" was specifically put in the statute at the insistence of the clinical psychologist and clinical social work organizations to ensure that the Board had discretion whether or not to include a waiver, and if included, what the requirements would be.

Dr. Hughes addressed Dr. Horvatic's recommendation to increase the substance abuse-specific semester hour requirements. She referred to the survey results indicating that most programs could cover nine hours, but would not be able to develop additional courses. Ms. Barnes stated that she felt fifteen hours was minimal for competence. Mr. Scalise agreed that a distinct and separate field should require more than nine semester hours, but recognized the practical considerations based on the survey results. Mr. Nebiker noted that the programs' cost estimates and time lines for developing new courses raised the risk of the regulations being rejected. Dr. McMillan recommended changing the language setting forth the degree program requirements to mirror the changes made earlier in the meeting for the marriage and family therapist regulations to allow individuals to obtain the coursework from a variety of programs, if necessary. Dr. Gressard noted that "jumping" programs was not looked upon as favorably as getting the course work from one cohesive program. Dr. Hughes added that as courses become available, the board could raise the requirements.

A motion was made by Ms. Barnes and seconded by Dr. McMillan to increase the requirements to fifteen semester hours. Further discussion followed regarding problems with the availability of coursework. Dr. McMillan and Ms. Barnes voted in favor of fifteen semester hours; Drs. Graham and Hughes and Mr. Scalise voted in opposition.

Dr. Graham made a motion to increase the proposed requirement from nine semester hours to twelve. Ms. Barnes seconded the motion. Following discussion, Mr. Scalise amended Dr. Graham's motion to keep the requirement at 9 hours, but compensate by increasing the direct substance abuse-specific internship hours from 300 to 450, and raising the direct client contact hours from 120 to 200 hours. Dr. Graham accepted the amendment. The amended motion passed with Dr. Graham, Mr. Scalise, and Dr. Hughes voting in favor, and Ms. Barnes and Dr. McMillan voting in opposition.

Mr. Scalise made a motion to adopt the CSAO recommendation to increase the direct client contact with substance abuse to 2000 hours. Dr. McMillan seconded the motion which passed unanimously.

Dr. McMillan made a motion to include clinical nurse specialists in the listing of supervisors. Dr. Graham seconded the motion which passed unanimously.

Ms. Volz pointed out that the CSAO had requested elimination of the proposed requirement that half the supervision come from a licensee of the Board. A motion was made by Dr. McMillan and seconded by Dr. Graham to eliminate the requirement. The motion passed unanimously.

#### Standards of Practice

Ms. Fleming recommended adding § 54.1-2400.1 to the listing of statutes cited under subdivision B 18 of 18 VAC 115-60-150. The members also agreed to change the prohibition on dual relationships in subdivisions B21 and B22 to mirror the language set forth in the proposed amendments to the regulations governing professional counselor licensure.

Following a motion made by Ms. Barnes and seconded by Dr. Graham, the Committee went into Executive Session to review the examination for substance abuse counselor certification.

Dr. Hughes certified that only subjects pertaining to the examination were discussed, and the Committee returned to open session.

#### “Substantially Equivalent” Requirements

Ms. Fleming explained that the Board had the choice of developing a permanent rule for what substantially equivalent requirements would be acceptable, or not developing a rule and considering each applicant on a case by case basis, which would be less consistent and more difficult to defend.

Dr. Hughes stated that the first two categories recommended in the VAADAC proposal were included in the draft endorsement provision under 18 VAC 115-50-60, and that that the one year waiver 18 VAC 115-60-90 of the draft would have to be struck, and a new permanent waiver be developed. Following discussion, Mr. Scalise made a motion to develop an equivalency to a master’s degree for the license. The motion was seconded by Ms. Barnes. Ms. Barnes, Mr. Scalise and Dr. Hughes voted in favor of the motion. Drs. Graham and McMillan were opposed. The members determined that the matter should be brought to the full Board for discussion on November 13<sup>th</sup>.

Responding to a question from Dr. Hughes, Ms. Fleming confirmed that the statute limited the scope of practice for this license to the treatment of addiction disorders. Discussion followed regarding the issue of competency of non-master’s practitioners to recognize differential diagnosis issues, and know when to refer clients for treatment of other problems.

#### **SCHEDULING**

The next meeting was scheduled for November 12<sup>th</sup> at 10 a.m. Richmond.

#### **ADJOURN**

The meeting adjourned at 4:40 p.m.



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Rosemarie S. Hughes, Ph.D., Chair

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Janet D. Delorme  
Deputy Executive Director